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The presence of such lesser policy cannot alter the nature of the more extensive insurance.¹¹ The risk of the latter is comparatively greater, but that is an incident of the size of the obligation assumed, for which the insurer presumably exacts a greater reward.¹² Nor is the fact that the loss was first paid by a co-surety a reason for lightening the burden undertaken by the more general policy.

From a practical viewpoint, it is evident that the nature of this risk renders it peculiarly difficult to limit the amount at hazard on this one item, as may be done in fire insurance by showing the value of the specific thing. Conceivably this one employee might have stolen £40,000, for which the policy would have been liable.¹³ In the absence of proof that his opportunities to misappropriate were restricted, the ratio would necessarily be 2500 to 193,600. An appearance of unfairness in that result seems to have been the controlling ground of the decision.

JURISDICTION OVER FOREIGN VESSELS. — Over foreign public vessels in its ports every nation is understood to waive the exercise of its territorial jurisdiction.¹ This concession, based on international courtesy and not a matter of right,² is made because it is not to be considered that a vessel, representing the dignity and sovereign power of an independent state, and its crew as public functionaries, would submit to another authority.³ Though the extent of this concession is still in dispute, the difference is for the most part one of terminology rather than of substance. Most writers assert that such a vessel is to be treated as part of the territory of its sovereign, agreeing, however, that it must commit no act of aggression and must respect the local port regulations.⁴ The latest writers oppose this doctrine of extraterritoriality as an inaccurate and confessedly misleading⁵ fiction, but they admit that the vessel and crew are to be regarded as not subject to the territorial jurisdiction.⁶ The latter view, sounder in theory, is probably the one actually applied by the nations.⁷ On the other hand, in regard to foreign private ships in port there is a difference in practice rather than in theory. It seems

¹¹ See GRISWOLD, FIRE UNDERWRITERS' TEXT-BOOK, § 2079.

¹² See *id.*, § 1545.

¹³ *Cromie v. Kentucky & Louisville Mutual Ins. Co.*, *supra*.

¹ *The Schooner Exchange v. M'Faddon*, 7 Cranch (U. S.) 116.

² See *The Santissima Trinidad*, 7 Wheat. (U. S.) 283, 353. Since this exemption is based on toleration the sovereign of the port might revoke it and exclude or expel such vessels or, conceivably, attempt to submit them to its jurisdiction — with the necessity of answering to the sovereign of the vessel for such acts. See PRADIÈR-FODÉRÉ, DROIT INTERNATIONAL PUBLIC, § 2405; 2 MOORE, DIGEST OF INTERNATIONAL LAW, § 253.

³ See 3 CALVO, LE DROIT INTERNATIONAL, 337. Cf. *M'Culloch v. Maryland*, 4 Wheat. (U. S.) 316; *Dobbins v. Commissioners of Erie Co.*, 16 Pet. (U. S.) 435.

⁴ See ORTOLAN, DIPLOMATIE DE LA MER, 212; LAW MAG. AND REV., No. 219, p. 201.

⁵ See ORTOLAN, DIPLOMATIE DE LA MER, 212.

⁶ See HALL, INTERNATIONAL LAW, 3 ed., 191; PRADIÈR-FODÉRÉ, DROIT INTERNATIONAL PUBLIC, §§ 2401, 2403; PIETRI, LA FICTION D'EXTRATERRITORIALITÉ, 364.

⁷ See 2 Mich. L. Rev. 347. There is some authority, however, for saying that the local jurisdiction over criminals is not ousted by their escape to a foreign war-vessel. See REPORT OF ROYAL COMMISSION ON FUGITIVE SLAVES; 1 Op. Atty. Gen. 47.

universally admitted that over them the territorial sovereign retains complete jurisdiction.⁸ The French rule of practice is for that sovereign to refuse to exercise it over acts relating solely to the internal discipline of such vessels and offenses committed by one member of the crew against another without disturbing the peace of the port.⁹ This rule, though not universal, is growing in favor and is embodied in numerous treaties.¹⁰ But acts of the territorial legislature intended to apply to such vessels must be followed.¹¹ So on any view a recent case in which the master of a Norwegian ship in Manila Bay was fined by a Philippine court because of conditions on board, seems right.¹² *United States v. Bull*, 5 Am. J. Int. Law, 242 (Phil. Is., Sup. Ct., Jan. 15, 1910).

The law concerning jurisdiction over foreign vessels in the littoral seas is still in the making. A public vessel will there undoubtedly have the exemptions it enjoys in port; but as to merchantmen the publicists are in conflict. By some it is said that the vessel is subject to the same jurisdiction as if in port.¹³ By others it is urged that the vessel is to be regarded as in no way subject to the jurisdiction of the littoral state, though bound to abide by its navigation regulations.¹⁴ And there is the intermediate position that, while as a general rule a vessel is subject to the jurisdiction of the littoral state, one merely passing through is subject only in respect of acts which violate the interests of that state or of its subjects outside the vessel.¹⁵ These numerous distinctions between ports and littoral seas, between vessels at anchor and those passing through, between offenses taking effect on board and those taking effect outside, seem difficult to justify on principle as affecting jurisdiction. Despite the objection of certain theoretical writers every nation does claim the rights of a sovereign over its littoral seas.¹⁶ And there has been no evidence of an intent to relinquish jurisdiction, but of quite the contrary.¹⁷ So the jurisdiction of the littoral state should be admitted and to it should be left the determination of the rare cases of its exercise as a matter of expediency, a system that has worked well enough as to ports.

PURCHASE FOR VALUE AND WITHOUT NOTICE OF EQUITABLE INTERESTS. — It is the accepted doctrine in England that as between

⁸ The rule of practice in France is sometimes there stated to be based on lack of jurisdiction over the acts. But that this is not true is shown by the fact that the French port authorities will exert jurisdiction when asked. See ORTOLAN, *DIPLOMATIE DE LA MER*, 223, 224.

⁹ See 1 CALVO, *LE DROIT INTERNATIONAL*, 555.

¹⁰ *Wildenhus's Case*, 120 U. S. 1. See HALL, *INTERNATIONAL LAW*, 3 ed., 200.

¹¹ *Patterson v. Bark Eudora*, 190 U. S. 169. See 15 HARV. L. REV. 411.

¹² An objection to lack of jurisdiction over the subject-matter of the offense on the ground that the failure to provide suitable appliances and the subsequent voyage were outside Philippine waters, was answered by saying that the offense was a continuing one and existed during the trip up Manila Bay.

¹³ See HALL, *INTERNATIONAL LAW*, 3 ed., 202.

¹⁴ See IMBART-LATOUR, *LA MER TERRITORIALE*, 307.

¹⁵ *RESOLUTIONS OF THE INSTITUTE OF INTERNATIONAL LAW*, 1894, Art. 6, 7, 8.

¹⁶ The right of innocent passage of foreign vessels through such waters seems conceded. See OPPENHEIM, *INTERNATIONAL LAW*, 243; HALL, *INTERNATIONAL LAW*, 202.

¹⁷ See the Act of Parliament, St. 41 & 42 VICT. c. 73, following the decision in the case of the *Franconia*, *The Queen v. Keyn*, 2 Ex. D. 63.